

REMARKS

In reply to the Office Action dated December 10, 2004, claims 11 and 13 are currently under examination in the Application. By the above amendment, claim 11 has been amended for clarity and in order to expedite prosecution of the application. The above amendment is not to be construed as acquiescence to the stated grounds for objection/rejection and is made without prejudice to prosecution of any subject matter modified and/or removed by this amendment in a related divisional, continuation and/or continuation-in-part application.

***Claim Rejections – 35 U.S.C. § 112, first paragraph (written description)***

Claims 11 and 13 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly containing subject matter which is not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the Applicants, at the time the application was filed, had possession of the claimed invention. In particular, the Action contends that, out of the broad genus of polypeptides which may have 90% identity to SEQ ID NO:475, it is unclear how the skilled artisan, apart from further experimentation, would be able to predict which combination of modifications of SEQ ID NO:475 would produce a polypeptide of 90% that is useful for producing an immune response in a patient. Therefore, the Action concludes, the full scope of the claimed invention was not “ready for patenting” at the time of filing of the present application. The Action further contends that due to the level of unpredictability associated with protein structure and predicting protein function, and the alleged lack of guidance thereof in the specification as filed, Applicants’ disclosure is insufficient to adequately describe the genus of polypeptides encompassed by the claimed invention.

Applicants respectfully traverse this rejection for the reasons already of record. Applicants reiterate that the skilled artisan would readily appreciate that, as filed, the present specification *reasonably conveys* that Applicants were in possession of the subject matter encompassed by the claims. Applicants submit that the skilled artisan would immediately appreciate in view of the guidance provided in the specification as filed that polypeptides with structural similarity to B726P could easily be used to generate T cells and antibodies that recognize the B726P polypeptide set forth in SEQ ID NO:475. Further, the skilled artisan would

understand that such polypeptides could be generated using assays known in the art with the guidance set forth in the specification as filed.

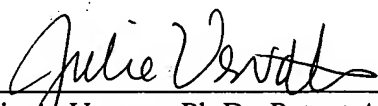
Notwithstanding the above remarks, Applicants have amended the claims to remove recitation of "polypeptides having at least 90% identity to the full length of the polypeptide set forth in SEQ ID NO:475, wherein said polypeptides having at least 90% identity are immunologically reactive with an antibody and/or T cell that reacts with the polypeptide set forth in SEQ ID NO:475". Applicants submit that this amendment is made solely to expedite prosecution and without prejudice to prosecution of subject matter modified or removed by this amendment in a related application. Applicants submit that the claimed subject matter satisfies the written description requirement and respectfully request withdrawal of the rejection under 35 U.S.C. § 112, first paragraph.

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

Applicants respectfully submit that all the claims remaining in the application are now believed allowable. Favorable consideration and a Notice of Allowance are earnestly solicited.

Respectfully submitted,

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